

PROCESS BY WHICH A DISASTER IS DECLARED

Under most circumstances disasters happen quickly and without much notice. A flood can rush through a community and its surrounding area and leave in its wake tremendous damage. Events such as floods, tornados, hurricanes, fires have an easily identifiable beginning and end. Drought, however, is a much different type of disaster. A drought and its effects are not realized until a while after its inception. The end of a drought may not be recognized until a while after the event has concluded.

Wyoming has been experiencing the effects of a severe drought for several years. In some areas of the state, such as the Big Horn Basin area, drought has taken up residence since 1999. In fact, simple observation of the National Drought Monitor would lead one to believe that the current drought has ebbed and flowed in the last 5-6 years but has used the Basin as a pivot around which to rotate.

The long term impacts of a drought are more and more prevalent with each passing year. The frustration to local, state, and federal governments is that ultimately only consistent, abundant amounts of snow and rain will really provide the relief, and aid agriculture producers need as a result of this drought.

In the mean time USDA's Farm Service Agency provides a process by which a disaster due to drought can be declared in individual counties. There are four types of disaster designations that can be made:

- 1) Presidential major disaster declaration
- 2) USDA Secretarial disaster designation
- 3) Farm Service Agency (FSA) Administrator's Physical Loss Notification
- 4) Quarantine designation.

The first three types of disaster declarations are authorized under 7CFR (Code of Federal Regulations) 1945-A. The fourth is the result of a statutory requirement, Section 5201 of the Agricultural Assistance Act of 2003, P.L. 108-07, which authorizes emergency (EM) loans for losses resulting from quarantines imposed by the Secretary under the Plant Protection Act or animal quarantine laws as defined in section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990.

Presidential major disaster declarations, which must be requested by a governor to the President, are administered through the Federal Emergency Management Agency (FEMA). A Presidential major disaster declaration can be made within days or hours of the initial request. FEMA immediately notifies FSA of the primary counties named in a Presidential declaration.

USDA Secretarial disaster designations must be requested of the Secretary of Agriculture by a governor or the governor's authorized representative, or by an Indian Tribal Council leader. The Secretarial disaster designation is the most widely used and its process is the

most complicated of the four. It is described in further detail under "Secretarial Disaster Designation Process" below.

An FSA Administrator's Physical Loss Notification (APLN) is for physical losses only, such as a buildings destroyed by a tornado. An APLN is requested of FSA's Administrator by an FSA State Executive Director (SED).

A quarantine designation is requested of the FSA Deputy Administrator for Farm Programs by an FSA SED. A quarantine designation authorizes EM loans for production and physical losses resulting from a quarantine.

Secretarial Disaster Designation Process

Damages and losses prompting disaster designations must be due to a natural disaster; and a minimum 30-percent production loss of at least one crop in the county must have occurred.

STEP 1

A county judge or County Commissioners or other local entity notifies the governor's office of the disaster conditions and losses. The governor makes a request in writing to the Secretary of Agriculture within three months of the ending date of the disaster. (In the case of the drought the Governor makes a request at any time he deems appropriate.)

STEP 2

Once the Secretary of Agriculture has received the Governor's letter, and the request is processed, the State Executive Director (SED) of FSA is contacted. The SED notifies the county offices to hold a County Emergency Board (CEB) meeting. County FSA, NRCS, RD, Extension, and other concerned officials are invited to attend the CEB.

STEP 3

The CEB collects data from local officials to complete the Damage Assessment Report. Once all the data is considered the CEB will concur or not concur that a drought disaster has occurred in their county. If the CEB does not believe a 30% loss has occurred in any one crop, the CEB can defer the request until such time as further data can be collected. (*see section on Insufficient Data below*)

STEP 4

The DAR is then submitted to the State Emergency Board (SEB) for review and processing.

STEP 5

The SED prepares comments and recommendations. The SEB reviews the DAR. Upon approval, the DAR is submitted to FSA's National Headquarters (NHQ).

STEP 6

FSA's Emergency Preparedness and Programs Branch (EPPB) processes the loss information on the DAR, determines eligibility, and prepares a package, including the letter of approval or disapproval, to be signed by the Secretary. The office of the Under Secretary for Farm and Foreign Agricultural Services reviews the package and forwards it to the Secretary.

STEP 7

The Secretary approves or declines the request in writing.

Information Required for Processing Secretarial Disaster Requests

The information required to process a Secretarial disaster request includes:

- Previous 5-year average production history for the crops and farms listed in the DAR;
- Farm price average for previous 3 years for the crops listed in the DAR;
- Dates crops suffered damage, and conditions causing production losses;
- DAR signed by the CEB and SEB chairpersons;
- CEB and SEB meeting minutes;
- SED comments and recommendations.

Secretarial Disaster Request Process

- It generally takes 2 to 3 weeks from the time a request is received until the Secretary approves or denies the request in writing. If a loss occurs early in the spring, FSA may wait until the completion of fall harvest before completing the DAR. Current regulations provide considerable discretion in the process.
- Natural disaster conditions include: a blizzard, cyclone, earthquake, hurricane, tornado, severe hail, excessive rain, heavy snow, ice and/or high wind, an electrical storm, several weather patterns sustained over a period of time, including low or high temperatures, and related pests, epidemics, or fires.
- The normal year's dollar value is determined by establishing a normal year yield and price. Normal year yield will be the average yield of the 5 years immediately preceding the disaster year for each crop.

Circumstances Affecting Secretarial Disaster Designations

Disaster designations offer flexibility and accommodate circumstances such as:

- **Continuing adverse weather.** When a natural disaster continues beyond the date on which a Secretarial determination is made, and continuing losses or damages are occurring, the Administrator can extend the incidence period and termination date to, but not in excess of, 60 days.
- **Insufficient data.** When the data is determined insufficient to make a designation, the request remains active, but is deferred until sufficient information is received to make an eligibility determination.

FSA Programs Initiated by Designations and/or Declarations

All four types of designations, i.e., Secretarial disaster designations, Presidential disaster declarations, APLNs, and quarantine designations, immediately trigger low-interest FSA EM loans to eligible producers in all primary and contiguous counties.

Other programs that have used Secretarial designations and Presidential declarations as an eligibility requirement trigger, for **primary counties only**, include:

- Livestock Compensation Program;
- Livestock Assistance Program;
- Livestock Indemnity program;
- Flood Compensation Program

Please note these are ad Hoc programs only and are not automatically implemented when a Secretarial designation is declared. These programs must be initiated and funded by Congress on a case by case basis to be utilized.

Disaster Debt Set-Aside Program

FSA borrowers located in designated disaster areas or contiguous counties, who are unable to make their scheduled payments on any debt, may be authorized to have certain set asides. Under Section 331A of the consolidated Farm and Rural Development Act, FSA is authorized to consider setting aside certain payments owed by FSA borrowers to allow the operation to continue.

Emergency Loan Eligibility for All Four Types of Emergency Designations

When a county is designated as a primary disaster area, eligible producers in contiguous counties are also eligible for EM loans.

Farm operators in the primary designated counties, and in the contiguous counties, can apply and may be approved for low-interest FSA EM loans, provided eligibility requirements are met.

Loan Limit

Eligible producers may borrow up to 100 percent of actual production or physical losses, not to exceed a total amount of \$500,000. EM loans are further limited to a maximum, cumulative principal of \$500,000 at any time.

EM Loan Applicants

Applicants must meet all standard loan eligibility requirements; and:

- have eight months from the date of the designation approval to apply for the loans to help cover their actual losses;
- must meet the agency definition of an established farmer, be citizens or permanent residents of the United States, and have suffered at least a 30-percent loss in crop production; and/or sustained a physical loss to livestock, livestock products, real estate, or chattel property;
- must have an acceptable credit history, yet be unable to receive credit from commercial sources;
- must have collateral to secure the loan and ability to repay the loan.

EM Loan Funding

The EM loan program is subject to an annual appropriation of discretionary funding.